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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,062	10/24/2003	Robert W. Dean JR.	480830.00002	3376
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QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497			EXAMINER LAUX, JESSICA L	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,062

Applicant(s)

DEAN, ROBERT W.

Examiner

Jessica Laux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17, 20-22 and 26-37 is/are rejected.
- 7) ☒ Claim(s) 16, 18, 19 and 23-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show a triangular shape and cross section of the pin (element 48) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: Line 5 of page 8 recites "Each pin is formed in the upper block surface...". The drawings fail show a pin formed in the upper block surface. The drawings show a separate pin in figure 10 that is not formed on the block. It is unclear whether the pin is formed on the block or if it is a separate item.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "wherein said inner walls" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "said forward facing wall and said rearward facing wall" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "said inner walls" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "said reference line" in line 22. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The last line of the claim recites "spaced forwardly from said reference plane". There are two previously mentioned reference planes and it is

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unclear as to which reference plane is being described. Appropriate correction is required.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear how a reference line on a first block is spaced from front and rear walls of a second block and how two reference lines parallel to one another on the same first block can have the ends aligned and how reference lines align to form a wall. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- 8, 10, 12-15, 17, 20-22, and 26-33 are rejected under 35 U.S.C. 102(b) as being anticipated by MacDonald et al (6912823).

In regards to claim 1, 4, 5, 6, 12, and 13, 26, 28, 31: MacDonald et al teaches a building block that has an upper and lower surface, two side walls extending between the upper and lower surface and a front and rear wall perpendicular to the side walls and between the upper and lower surfaces (Col. 9, lines 17-20 & 24-25). For the purposes of this examination a reference plane will exist between the side walls and spaced equally distant from the front and rear faces. Since a reference plane is merely a plane from which to reference and is not necessarily a tangible thing, it can therefore

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be located where the user sees fit. There is a pair of pin slots on the upper block surface spaced equidistantly on opposing sides of the reference plane (Figure 2B, element 133b). The block has an opening, in the lower block surface and extending to the upper block surface, having a forward and rearward wall that are equi-distant from the reference plane and are closer to the reference plane than the pin slots (Figure 2B, element 116b).

In regards to claims 2-3 and 29-30: The opening is a core that extends from the lower surface through the block to the upper surface and is between the pair of pin slots (Figure 2B and Col. 9, lines 33-34).

In regards to claims 7 and 32: A reference line, in the form of a channel, is located on the block parallel to the reference plane and located on the bottom of the block, since the block serves the same function whether the reference lines are located on the upper or lower surface the examiner considers them to be inherently the same (Col. 9, lines 38-41).

In regards to claims 8 and 33: The block as taught by MacDonald has reference lines, in the form of channels and protrusions, parallel to the reference plane on the side walls (Figure 2D, elements 150d and 152d).

In regards to claims 10 and 35: The block as taught by MacDonald has a pin received in the pin slot (Col. 6, lines 50-56).

In regards to claims 14 and 37: The block as taught by MacDonald has at least one side wall that forms an obtuse angle with the front or rear wall (Figure 2B).

In regards to claim 15, 20, 21, 22: MacDonald teaches a block structure as in claim 1 above having an upper and lower surface, two side walls extending between the upper and lower surface and a front and rear wall perpendicular to the side walls and between the upper and lower surfaces (Col. 9, lines 17-20 & 24-25). For the purposes of this examination a reference plane will exist between the side walls and spaced equally distant from the front and rear faces. Since a reference plane is merely a plane from which to reference and is not necessarily a tangible thing, it can therefore be located where the user sees fit. There is a pair of pin slots on the upper block surface space equidistantly on opposing sides of the reference plane (Figure 2B, element 133b). The block has an opening, in the lower block surface and extending to the upper block surface, having a forward and rearward wall that are equi-distant from the reference plane and are closer to the reference plane than the pin slots (Figure 2B, element 116b). The block structures can be placed one on top of the other to form a block wall where the reference line of the second (upper) block is rearward of the reference line of the first (lower) block (Figure 10; Col. 13, lines 57-66).

In regards to claim 27: The block as taught by MacDonald has at least one side wall that forms an obtuse angle with the front or rear wall (Figure 2B).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald et al. (6912823) in view of Roe (2392551). MacDonald teaches a structure as in claim 1 above. MacDonald does not teach a block structure wherein the pin slots and pins received in the pin slots are triangular. Roe teaches a block structure having pin slots that are triangular in shape (Figure 4, elements 8 and 11). Roe also teaches a pin to be received in the pin slots (Figures 1 and 5). The pin also is tapered so that the bottom is smaller than the top (Page 2, Col. 1, lines 30-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the block structure as taught by MacDonald with the pin and pin slots as taught by Roe because the pin slots ensure proper placing of the blocks and pins within the slots and the pin being tapered provides a snug fit ensuring proper placement.

Allowable Subject Matter

Claims 16, 18-19, 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JL

12/08/2005



Naoko Slack
Primary Ex.